

1 ROBERT BORTON (SBN 53191)
2 Email: robert.borton@hellerehrman.com
3 DANIEL KAUFMAN (SBN 246041)
4 Email: daniel.kaufman@hellerehrman.com
5 HELLER EHRMAN LLP
333 Bush Street
San Francisco, CA 94104-2878
Telephone: (415) 772-6000
Facsimile: (415) 772-6268

6 | Attorneys for Petitioner
HO RIM KAM

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

HO RIM KAM.

Petitioner,

V.

MARTIN LUTHER KING, JR.-MARCUS
GARVEY SQUARE COOPERATIVE BOARD
OF DIRECTORS.

Respondent.

Case No.: C 07 4414 (SBA)

**[REVISED PROPOSED] ORDER
TO SHORTEN THE TIME FOR
HEARING OF MOTION TO
REMAND
(NORTHERN DISTRICT LOCAL
RULE 6-3)**

The Honorable Saundra B. Armstrong
Date: N/A
Time: N/A
Court: Courtroom 3, 3rd Floor

The motion of Petitioner Ho Rim Kam for an order shortening the time for hearing of his Motion to Remand came on for hearing before this Court, with Heller Ehrman LLP appearing as attorney for Petitioner and Kaufman, Dolowich & Voluck LLP appearing for Respondent. Notice of the Motion was properly made.

BACKGROUND

This action originated as a Verified Petition for Issuance of Peremptory Writ of Mandamus, filed by Petitioner Ho Rim Kam in the California Superior Court, in and for the County of San Francisco. The Petition was filed on August 6, 2007, served on Respondent on August 8, and removed to this Court by Respondent's Notice of Removal filed on August 27, 2007, pursuant to 28 U.S.C. § 1331.

Petitioner filed a timely Notice and Motion for Remand on August 31, 2007, arguing that his Petition alleges no federal cause of action and raises no federal question. Petitioner points out that, under the standard briefing schedule set forth in Local Rule 7-2(a), Mr. Kam's Motion to Remand could not be heard until October 16, 2007, more than six weeks after his original Petition for Writ of Mandate was set to be heard in the Superior Court.

6 Accordingly, Petitioner requests that this Court shorten the time for hearing on his
7 Motion to Remand, pursuant to Local Rule 6-3, so that the expedited California Writ of
8 Mandate proceeding may continue in the California Superior Court.

LEGAL STANDARD

Under Local Rule 6-3 (d), “After receiving a motion to ...shorten time and any opposition, the Judge may grant, deny, modify the requested time change....” Such a request is addressed to the Court’s discretion.

ANALYSIS

14 As shown in his moving papers, Mr. Kam filed his Petition for Writ of Mandate in
15 San Francisco Superior Court on August 6, 2007. The Petition was served on the President
16 of Respondent Board on August 8, 2007. Because such a writ is intended quickly to redress
17 the injury suffered when a duly elected board member of a California non-profit corporation
18 is improperly prevented from exercising the rights of his office, California Code of Civil
19 Procedure §1085 et seq, provides for a shortened notice period of as little as ten days.
20 Petitioner's Writ was scheduled to be heard on August 22, 2007. On August 27, the
21 response date for the writ, Respondent removed the case to this Court, claiming that Mr.
22 Kam's petition arises under federal law. This removal has delayed the state Court's ruling
23 on the mandamus action, and threatens still further delay.

24 The Court finds that Mr. Kam has shown good cause for shortening time for the
25 hearing on his Motion to Remand this action to the California Superior Court. Substantial
26 prejudice will result if the notice period is not shortened, in that Mr. Kam is being prevented
27 from representing the Cooperative shareholders who elected him. Only a prompt resolution
28 of the Writ will allow Mr. Kam and his constituency to address critical financial issues now

1 facing the Board. The question of federal removal jurisdiction must be settled first,
2 however, before that Writ proceeding may continue.

3 Further, shortening time is consistent with the purpose of the California Mandamus
4 statute, and the issues presented by the Remand Motion are capable of prompt resolution
5 upon the pleadings.

6 Mr. Kam's Application makes all of the required showings under Local Rule 6-3.

7 **CONCLUSION**

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9 Accordingly, after full consideration of the moving and opposing papers, the Court
10 grants Petitioner's motion to shorten time of notice and advance the hearing date of the
11 Motion to Remand. It is therefore ORDERED as follows:

12
13 Opposition of Martin Luther King, Jr.-Marcus Garvey Square September 6, 2007
Cooperative Board of Directors' ("the Board") to Motion to
14 Remand to be filed and served by hand or facsimile
Petitioner's Reply to be filed and served by hand or facsimile September 10, 2007
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16 Motion to Remand September 11, 2007 at
17 DATED: _____ 1:00 p.m.
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19 JUDGE OF THE UNITED STATES
DISTRICT COURT
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